

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE:

MIA NICOLE COLON REYES

Debtor

FIRSTBANK PUERTO RICO

Creditor

CASE No.: 19-04138 (BKT)

CHAPTER 13

(X) RELIEF FROM THE AUTOMATIC STAY UNDER
11 USC §362(d)(1)

JOINT STIPULATION

TO THE HONORABLE COURT:

Jointly appearing through their respective counsel, Debtor and secured creditor Firstbank PR respectfully state and pray:

1. Debtor filed a petition for relief under the provisions of Chapter 13 of the Bankruptcy Code (11 U.S.C. §1301 *et seq.*) on July 20, 2019.
2. Movant filed a secured proof of claim in the amount of \$28,761.99 as holder of a duly registered personal security interest guaranteed with Debtor's 2017 Honda Civic, identified as no. 1 at Claims' Register. Pre-petition arrears in the amount of \$1,100.40, equivalent to two (2) installments were included in said claim.
3. The amended plan dated February 14, 2020 (docket no. 41) pays pre-petition arrears and post-petition to Firstbank PR, includes certain arrearage through the plan and keeps regular monthly payments to claim no. 1.
4. On December 30, 2019 Movant filed a *Motion for relief from the automatic stay* (docket no. 25) for \$2,381.80 owed, equivalent to four (4) post-petition installments, the accrued late charges and the costs of the motion for relief. An *Objection to confirmation* was also filed by Movant on January 27, 2020 (docket no. 33) against plan dated November 1, 2019 (docket no. 20) because it was not feasible in light of the accumulated post-petition arrearage.
5. A request for *Entry of Order* to hold Objection to confirmation (docket no. 33) in abeyance was filed by Firstbank PR on May 13, 2020 (docket no. 54).
6. The parties met in a good faith effort to mend their differences and after due

consideration of all matters related to the Motion for relief from stay (docket no. 25) and the *Objections to confirmation* (dockets no. 33 and 54) and have reached an agreement included in this *Stipulation*, disposing of the controversy at bar without need of further litigation and according to the following

TERMS AND CONDITIONS

7. **The post-petition arrearage of \$1,831.60, equivalent to three (3) post-petition installments due, the accrued late charges and the costs of the motion for relief will be paid through the proposed plan, together with the pre-petition arrearage of \$1,100.40, equivalent to two (2) installments originally claimed.**

8. **On or before May 21, 2020 Debtor will pay the post-petition installment for May '20 and will provide evidence to appearing creditor.**

9. **The parties further agree that in the event that Debtor subsequently defaults in direct payments to Firstbank PR or the chapter 13 trustee by any two (2) months, the automatic stay will be lifted in favor of Firstbank PR without need of a hearing.**

10. Firstbank PR will amend its claim in accordance to the terms of this Stipulation once it is approved by the Court. While it is pending approval, the figures hereby contained will amend claim no. 1.

11. Debtor will file a plan incorporating the terms of this Stipulation. This Stipulation contains the sole and entire agreement between the parties and will not be changed orally.

12. Each party will bear its costs and attorney's fees.

13. Failure by any of the parties to exercise any right under this Stipulation will not be considered a waiver thereof.

14. This agreement is binding upon the appearing parties and shall constitute *res judicata* for purposes of any future litigation in the case at bar, unless the bankruptcy case at caption is dismissed. 11 U.S.C. §348(f)(1)(B) and (C), 11 U.S.C. §1325(a)(5)(B).

15. The appearing parties, represented by their undersigned attorneys, respectfully submit the present Stipulation and request the approval of this Honorable Court. By the execution of this Stipulation, Debtor and Firstbank Puerto Rico jointly request its approval by the Court and Judgment pursuant to the afore mentioned stipulated terms.

16. The Court shall retain jurisdiction for the purpose of enforcing this Stipulation and adjudicating any claims arising under or in connection therewith.

IN WITNESS WHEREOF, the appearing parties respectfully request that the forgoing Stipulation be approved.

NOTICE

Within **TWENTY-ONE (21) days** after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this motion has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, this motion will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise. [Puerto Rico Local Bankruptcy Rule 9013-1(h)(2)(A).]

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this _____ day of May, 2020.

/s/ MARICARMEN COLON DIAZ
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this motion is being sent by first class mail to the Debtor, at their address on record: Urb. Bunker, 40 Costa Rica street, Caguas, P.R. 00725; and to the authorized addresses through/by the Bankruptcy CM/ECF System to: Roberto Figueroa

Carrasquillo, Esq., counsel for Debtor and to José R. Carrión Morales, Esq., Chapter 13 Trustee.

//s// Maricarmen Colón Díaz

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